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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,958	10/30/2003	Timothy Bernard Allmandinger	8200.623	6266

7590 04/19/2005
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EXAMINER

HO, HA DINH

ART UNIT	PAPER NUMBER
3681	

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/695,958

Applicant(s)

ALLMANDINGER ET AL.

Examiner

Ha D. Ho

Art Unit

3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 10-17 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 7-9 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/30/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the first Office Action on the merits of Application No. 10/695,958 filed on 10/30/03.
2. Receipt is acknowledged of the Preliminary Amendment filed on 01/28/04. Claims 1-19 are currently pending.

Election/Restrictions

3. Applicant's election with traverse of Group I, claims 1-9 and 18 (note that claim 18 depends from claim 1 and thus it should belong to group I) in the reply filed on 03/02/05 is acknowledged. The traversal is on the ground that claims 10-19 are drawn to a method for adjusting a position of an adjustable sealing flange device, not to the method for manufacturing the differential assembly. This is found persuasive. Further, the traversal is on the ground that the method of claims 10-19 is not classified in class 29, but rather in the class 475. This is not found persuasive because the method of claims 10-19 is classified in class 29, subclass 434 (please refer to the definition of class 29, subclass 434). Moreover, the method as claimed can be practiced by another materially different apparatus such as a transmission gearbox rather than the drive axle assembly.

The requirement is still deemed proper and is therefore made FINAL.

4. Claims 10-17 and 19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 03/02/05.

Claim Rejections - 35 USC § 103

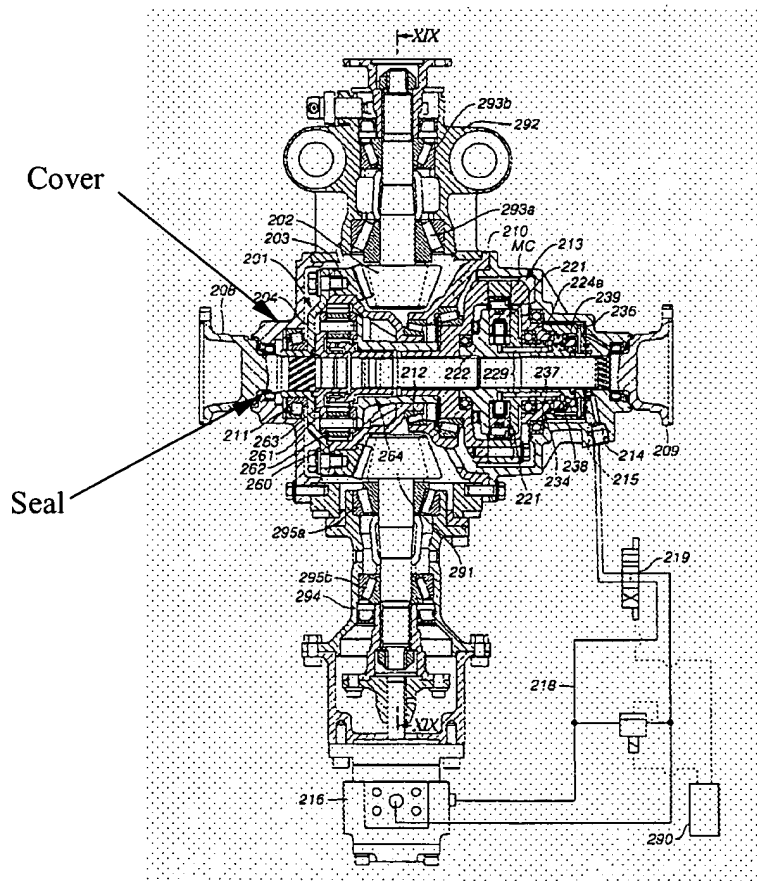
5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3681

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otaki et al (US 6,328,667) in view of Lansdale (US 5,013,050).

Otaki et al disclose a drive axle assembly for a motor vehicle (see Fig. 14) comprising a support beam member (292), a differential assembly module (201) secured to the support beam member, a pair of axle shaft members (208, 209), and a cover member (see Fig. 14 below) fastened

FIG. 14

Art Unit: 3681

to the support beam and having an access opening therein for receiving the axle shaft member (208) therethrough, the access opening in the cover member provided with a sealing device (see the inserted Fig. 14).

Otaki et al do not show the sealing device being adjustable relative to the cover member.

Lansdale discloses an adjustable sealing flange device (54, 56) (see Fig. 3) provided on the cover member (52) to seal an interior cavity within the cover member between the access opening and the rotating shaft (50), wherein the adjustable sealing flange device (54, 56) is adjustable relative to the cover member.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the sealing device of Otaki et al by the adjustable sealing flange device of Lansdale so that the seal can be properly centered relative to the shaft center because the function of the seal will be adversely affected if the gap to be sealed is wider on one side than the other (col. 1, lines 22-27).

Note that the modified drive axle assembly would have all the features recited in claims 2-6. Further, the cover member would be provided with a plurality of holes for fastening the sealing flange device to the cover as taught by Lansdale.

Allowable Subject Matter

7. Claims 7-9 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Cited Prior Art

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: MacDonald'320 shows an adjustable seal. Peloquin'337, Gasch'430, DiDomenico et al.'127, Bendtsen'304, Allmandinger et al.'207, Guo'972, Kume'739, and Inagaki et al.'272 which each shows a differential gear unit.

Communication

9. Submission of your response by facsimile transmission is encouraged. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see M.P.E.P. 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P. 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to
the Patent and Trademark Office on _____

(Date)

Typed or printed name of person signing this certificate:

(Signature)


If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P. 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Art Unit: 3681

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ha D. Ho whose telephone number is 571-272-7091. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HDH
(703) 305-0738
April 15, 2005


HAHO
PRIMARY EXAMINER
Art Unit 3681 4/15/05